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Kearns Tunex; Murray Tunex;
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West Valley Tunex.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

In re:)	Case No. 14-30208
)	
TNX Automotive Services, LLC,)	Chapter 7
)	
Debtor.)	Honorable Judge R. Kimball Mosier
)	

**MOTION FOR RELIEF FROM THE
AUTOMATIC STAY PURSUANT TO § 362 AND § 1301**

West Jordan Tunex; Kearns Tunex; Murray Tunex ;Draper Tunex; Heber Tunex; and West Valley Tunex (jointly referred to herein as “Tunex Creditors”), pursuant to Rule 4001 Bankruptcy Rules and Local Rule 4001-1, respectfully moves this Court for an Order granting relief from the automatic stay imposed by 11 U.S. C. §362 as to certain property described herein and the stay imposed by 11 U.S.C. § 1301 to allow them to enforce its legal rights and lawsuit against the Debtor TNX Automotive Services, LLC, and represents as follows:

1. Tunex Creditors are businesses located and operating in the State of Utah.
2. Debtor, TNX Automotive Services, LLC is a Utah limited liability company that has ceased operations.

3. Debtor filed a petition in this court under Chapter 7 of the Bankruptcy Code on September 26, 2014.
4. On August 21, 2014, three (3) of the Tunex Creditors (West Jordan Tunex; West Valley Tunex; and Kearns Tunex) filed a complaint against TNX Automotive Services, LLC in the Third District Court, Salt Lake County, Salt Lake Department, State of Utah alleging claims sounding in Breach of Contract, Negligent Misrepresentation, and Unjust Enrichment. Attached hereto and incorporated herein by this reference as Exhibit "A" is a true and correct copy of the same.
5. That lawsuit was assigned Case No.: 140905765 and Judge Royal I. Hansen was assigned.
6. The summons and complaint were properly served on the registered agent of TNX Automotive Services, LLC, Nick Butterfield, on September 12, 2014.
7. TNX Automotive Services, LLC has failed to file an Answer or other pleading with the court in that lawsuit.
8. On September 22, 2014, three (3) of the other Tunex Creditors (Murray, Heber, and Draper) filed a complaint against TNX Automotive Services, LLC in the Third District Court, Salt Lake County, West Jordan Department, State of Utah alleging claims sounding in Breach of Contract, Negligent Misrepresentation, and Unjust Enrichment. Attached hereto and incorporated herein by this reference as Exhibit "B" is a true and correct copy of the same.
9. That lawsuit was assigned Case No.: 140906559 and Judge Barry Lawrence was assigned.

10. The summons and complaint were properly served on the registered agent of TNX Automotive Services, LLC, Nick Butterfield, on October 2, 2014.
11. TNX Automotive Services, LLC has failed to file an Answer or other pleading with the court in that lawsuit.
12. TNX Automotive Services failed to notify counsel for the Tunex Creditors that it had filed a Chapter 7 Bankruptcy case.
13. The Tunex Creditors are seeking to proceed on their claims in the Utah State Court to allow them to be released from their franchise agreements with the Debtor for the Debtor's breach of contract.
14. Each of the Tunex Creditors seek relief from stay to proceed forward on the breach of contract claims to be relieved of their contracts with the Debtor and will not seek monetary damages for the breach, so long as they are able to be released from their agreements with Debtor.
15. Tunex Creditors now desires to lift the automatic stay to proceed to trial on their equitable claims; or receive a default on their equitable claims.
16. Tunex Creditors seek an equitable remedy at this point, to have the contracts with Debtor nullified through the Third District Court in lieu of collecting an amount of money since the Debtor has filed for bankruptcy relief.

FIRST CLAIM FOR RELIEF

17. The Debtor has claimed that contracts exist with Tunex Creditors.
18. Tunex Creditors are entitled to proceed forward to trial or default in the Third District Court cases in the State of Utah to obtain equitable relief.
19. Debtor has no value in Tunex Creditors' contracts as the Third District Court

will find that the Debtor has breached its contracts with Tunex Creditors.

SECOND CLAIM FOR RELIEF

20. The estimated damages in the Tunex Creditors case outweigh the amount of money that Debtors claims is due to it by Tunex Creditors.
21. Tunex Creditors may file proofs of claim for their damages, should they not be able to receive the equitable relief sought for. Such damages will be in excess of the value of the contracts.
22. Tunex Creditors will be irreparably harmed by continuation of the automatic stay as to the Debtor preventing Tunex Creditors from proceeding forward in the litigation cases in the Third District Court.
23. Tunex Creditors are entitled to the release of the contracts so they can proceed forward for their equitable relief they are seeking in the Third District Court.

WHEREFORE, Tunex Creditors move this honorable Court as follows:

1. For its order lifting the automatic stay pursuant to 11 U.S.C § 362 to permit Tunex Creditors to proceed forward to trial on the merits or default in the Third District Court case and realize their equitable remedies and to give all notices and take such action as is necessary to be released from their contractual obligations of Debtor and the litigation case in the Third District Court, State of Utah.
2. For its order lifting the automatic stay pursuant to 11 U.S.C. § 1301 to allow it to pursue its claims against the Debtor to the extent provided by law, and specifically to allow them to be released from their contracts with Debtor as the Debtors has breached its agreement with Tunex Creditors.
3. For such other and further relief as the Court deems just.

DATED this 14th day of October, 2014.

EVELAND & ASSOCIATES, PLLC

/s/Jared B. Pearson

Jared B. Pearson, JD
Attorneys for West Jordan Tunex;
Kearns Tunex; Murray Tunex;
Draper Tunex; Heber Tunex; and
West Valley Tunex.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am employed in the law firm of Eveland & Associates, PLLC and that I served a true and correct copy of the foregoing document by sending a copy of the same to the parties listed below via U.S. mail, postage prepaid or via the ECF system of the court:

Chapter 7 Trustee
VIA ECF

United States Trustee
VIA ECF

Nick Butterfield
13861 April Moon Cove
Herriman, UT 84096

Boyd V Enniss
67 West 7500 South
Midvale, UT 84047

Larry R Hendricks
1107 Eaglewood Loop
North Salt Lake City, UT 84054

TNX Automotive Services, LLC
PO Box 256
Riverton, UT 84065

DATED this 14th day of October, 2014.

/s/Lea Mendez

Lez Mendez